

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

KUMHO TIRES

Employer

and

Case 10–RC–246475

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND
SERVICE WORKERS INTERNATIONAL UNION
AFL-CIO, CLC

Petitioner

ORDER

The Employer’s Request for Review of the Acting Regional Director’s Decision and Certification of Representative is denied as it raises no substantial issues warranting review.¹

¹ The Employer’s Request for Review purports not to waive exceptions to the Hearing Officer’s Report and to incorporate by reference arguments made on exception, but not in its request for review. Such contentions fail to comply with Sec. 102.67(e) of the Board’s Rules and Regulations, which requires a request for review to be a self-contained document. Consistent with Sec. 102.67(e), the Board has only considered arguments made in the request for review itself.

We agree with the Acting Regional Director that the Hearing Officer properly overruled the Employer’s Objection 2. We emphasize that the Hearing Officer found that the alleged altercation involving employee Beaulieu was fabricated. Even if a third party’s dissemination of a fabricated threat can warrant setting an election aside, the Employer has not met its burden under the standard set forth in *Westwood Horizons Hotel*, 270 NLRB 802, 803 (1984). Here, the alleged altercation did not encompass any other employee; news of the alleged altercation was not widely disseminated (although a possibly-determinative number of voters were told that there had been an altercation of some sort); there is no basis to evaluate whether voters would have thought the person who made the “threat” was capable of carrying it out; there is likewise no basis for finding any employees acted in fear said person was capable of carrying out the threat; and there is no evidence of rejuvenation near the election.

We also agree with the Acting Regional Director that the Hearing Officer properly overruled the Employer’s Objection 3 because the evidence in support of this objection did not rise to the level of objectionable conduct under the standard set forth in *Sewell Mfg. Co.*, 138 NLRB 66 (1962).

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

JOHN F. RING, MEMBER

Dated, Washington, D.C., April 30, 2021.